

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LACEY MARKETPLACE ASSOCIATES II, LLC,
a Washington limited liability company,

Plaintiff,

v.

UNITED FARMERS OF ALBERTA CO-
OPERATIVE LIMITED, et al.,

Defendants.

NO. 2:13-cv-00383-JLR

PRETRIAL ORDER

BURLINGTON RETAIL, LLC, a Washington
limited liability company,

Plaintiff,

v.

UNITED FARMERS OF ALBERTA CO-
OPERATIVE LIMITED, et al.,

Defendants.

NO. 2:13-cv-00384-JLR

Plaintiffs and defendants submit the following joint pretrial order in accordance with
Local Civil Rules 16 and 16.1.

JURISDICTION

This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1332. Each plaintiff's
damages alleged exceed \$75,000.

PRETRIAL ORDER - 1

NO. 2:13-cv-00383-JLR



Ryan, Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3034
206.464.4224 | Fax 206.583.0359

1 **CLAIMS AND DEFENSES**

2 Plaintiffs intend to pursue the following claims at trial:

- 3 1. Breach of lease against Wholesale Sports USA, Inc. ("Wholesale Sports").
4 2. Intentional interference with contract/business expectancy against all
5 defendants except Sportsman's and Wholesale Sports.
6 3. Violation of the Uniform Fraudulent Transfer Act, RCW Chapter 19.40,
7 against all defendants.

8 Defendants UFA and Sportsman's contend that Plaintiffs' claims under the UFTA are
9 limited to claims against Sportsman's (for Wholesale's transfer of the Purchased Assets) and
10 UFA (for Wholesale's transfer of a portion of the purchase proceeds). Because UFA was not
11 a debtor to either Plaintiff, UFA's transfer of the Wholesale stock is not subject to claims of
12 fraudulent transfer by either Plaintiff.

13 **ADMITTED FACTS**

14 1. Lacey Marketplace Associates II, LLC ("Lacey Marketplace") is the owner of
15 certain real property which is part of the Lacey Marketplace Shopping Center located in or
16 near the City of Lacey in Thurston County, Washington.

17 2. Burlington Retail, LLC ("Burlington Retail") is the owner of certain real
18 property located in or near the City of Burlington in Skagit County, Washington.

19 3. The landlord Lacey Marketplace and Sportsman's Warehouse, Inc. ("SW")
20 entered into a commercial lease dated November 23, 2005 for the building and lease of an
21 approximately 50,000 square foot retail store in Lacey, Washington ("Lacey Lease").

22 4. The Lacey Lease was amended by a First Amendment to Lease dated April 29,
23 2006.

24 5. Landlord SHDP Associates, LLC (now Burlington Retail) and SW entered into
25 a commercial lease dated February 23, 2006 for the building and lease of an approximately
26



1 60,000 square foot retail store in Burlington, Washington ("Burlington Lease").

2 6. By letters dated March 11, 2009, UFA Holdings notified the Lacey
3 Marketplace and Burlington Retail landlords that SW had assigned to UFA Holdings all of its
4 right, title and interest in the Lacey Lease and Burlington Lease.

5 7. UFA Holdings, Inc. subsequently changed its name to Wholesale Sports USA,
6 Inc. ("Wholesale Sports").

7 8. Donald F. Gaube is the sole owner of Alamo Group LLC ("Alamo").

8 9. Mr. Gaube is also the sole owner of several other single-purpose limited
9 liability companies.

10 10. On November 9, 2012, Alamo sent United Farmers of Alberta Cooperative
11 Limited ("UFA") a letter of intent ("LOI") to purchase Wholesale Sports.

12 11. Following discussions with UFA, the November 2012 LOI was revised. UFA,
13 Wholesale Sports, SW and Alamo finalized and executed an LOI on January 18, 2013.

14 12. On February 10, 2013, UFA, Wholesale Sports, SW, and Alamo executed a
15 multi-party contract entitled Master Transaction Agreement ("MTA").

16 13. The MTA closed on March 11, 2013.

17 14. Wholesale Sports' last rent payment to Lacey Marketplace was in April 2013.

18 15. Wholesale Sports' last rent payment to Burlington Retail was in June 2013.

19 16. By letter dated May 6, 2013, Lacey Marketplace provided its 10 day notice of
20 default of lease to Wholesale Sports.

21 17. By letter dated July 24, 2013, Burlington Retail provided its 10 day notice of
22 default of lease to Wholesale Sports.

23 18. The landlord Lacey Marketplace and TSA Stores, Inc. entered into a
24 commercial lease dated March 6, 2014.

25 19. The landlord Lacey Marketplace and PETCO Animal Supplies Stores, Inc.
26



1 entered into a commercial lease dated April 25, 2014.

2 20. The landlord Burlington Retail and Party City Corporation executed a
3 commercial lease in March, 2014.

4 21. The landlord Burlington Retail and Dick's Sporting Goods, Inc. entered into a
5 commercial lease dated March 20, 2014.

6 ISSUES OF LAW

7 Plaintiffs state the issues of law are whether the defendants violated the Washington
8 Uniform Fraudulent transfer act, whether Wholesale Sports is liable for breach of lease, and
9 whether UFA, Gaube and Alamo are liable for interference with contract.

10 UFA identifies the following legal issues for the Court's consideration:

11 (a) Whether or not Plaintiffs can establish a fraudulent transfer act claim where the
12 transfers of funds to UFA at issue are a small return of capital from UFA's original
13 investment of over \$92.2 million in Wholesale Sports;

14 (b) Whether or not Plaintiffs' claims for tenant improvement costs incurred to
15 remodel and/or permanently improve the value of their properties are recoverable as damages
16 under the duty to mitigate or otherwise ;

17 (c) Whether or not Plaintiffs can establish a claim as a present creditor under
18 RCW 19.40.051 where Plaintiffs were fully paid and, therefore, were not a present creditor at
19 the date of the closing on the MTA.

20 Defendants Wholesale Sports, Alamo Group LLC, and Donald F. Gaube state the
21 following issues of law:

22 Defendants have no objections, additions or changes to Plaintiffs' statement of issues
23 of law. Defendants intend to pursue the following affirmative defenses:

24 (a) Plaintiffs failed to mitigate their damages;

25 (b) Plaintiffs' damages, if any, are caused by their own actions or inactions;
26



1 (c) All assets and funds received by the Alamo Group from UFA and Sportsman's
2 were transferred in good faith and for a reasonably equivalent value.

3 Defendant SW states the following issues of law:

4 SW states the issue of law relevant to it as to whether it can be liable under Plaintiffs'
5 claims for fraudulent transfer when it paid Wholesale Sports USA reasonably equivalent
6 value for the Purchase Assets and received those assets in good faith. In the event the jury
7 finds against SW on the fraudulent transfer claim, it must also determine the following
8 affirmative defenses:

9 (a) Whether Plaintiffs failed to mitigate their damages and, therefore, their
10 damages should be barred in part or in whole;

11 (b) Whether Plaintiffs' damages, if any, are caused by their own actions or
12 inactions, or the conduct of third parties beyond Sportsman's control.

13 **EXPERT WITNESSES**

14 (a) Each party shall be limited to one expert witness on the issues.

15 (b) The name and address of the expert witness to be used by each party at the trial
16 and the issue upon which each will testify is:

17 (1) On behalf of plaintiffs:

- 18 • Lorraine Barrick, 1144 Federal Avenue East, Seattle, WA, 98102.
19 Ms. Barrick will testify regarding costs of releasing, lost rent and
20 costs, Wholesale Sports' use of proceeds from the Master
21 Transaction Agreement, and inventory, furniture and fixtures of
22 Sportsman's Warehouse.
23 • Brian Finnegan, PO Box 28416, 4202 Meridian Street, Suite 213,
24 Bellingham, WA, 98228-0416. Mr. Finnegan will testify regarding
25 plaintiffs' mitigation of their damages and construction costs.
26



(2) On behalf of defendant UFA:

- Andrew Robinson, Kidder Matthews, 601 Union Street, Suite 4720, Seattle, WA. Mr. Robinson will testify regarding costs of retreating the properties, increase in market value of the properties due to capital improvements, cap rate for original and replacement leases, and calculation of offsets to lost rent as capital improvements.
- William Weisfield, Elliot Bay Asset Solutions, 1420 Fifth Avenue, Suite 3000, Seattle, WA. Mr. Weisfield will testify regarding the appropriate time for leasing and retreating space; the appropriate market rents for the properties; mitigation/offset or prevention of lost rents incurred by Plaintiffs, the impact of new leases and tenant improvements on market value of the properties.

Plaintiffs object to the changed nature of UFA's experts' testimony and to them testifying outside the parameters of their individual reports. To the extent defendant UFA is allowed to have its experts testify, plaintiffs reserve the right to call Roland Hoefer.

OTHER WITNESSES

<i>Name</i>	<i>Address</i>	<i>Nature of Expected Testimony</i>	<i>Trial Testimony</i>
Mack DuBose	c/o Ryan Swanson Cleveland	Testimony will cover all areas of liability and damages. UFA: Landlord's reaction to the MTA, efforts to retreat both properties, and provisions of the lease and amended lease on Burlington.	Will testify
Michael Hess	c/o Ryan Swanson Cleveland	Testimony will cover all areas of liability and damages. UFA: Landlord's reaction to the MTA, efforts to retreat both properties.	Will testify



<i>Name</i>	<i>Address</i>	<i>Nature of Expected Testimony</i>	<i>Trial Testimony</i>
Robert Andrews	c/o Gordon Tilden Thomas & Cordell	Testimony will cover all areas of liability and damages. UFA: Lacey Marketplace's reaction to the MTA, efforts to retenant the property, decision to release the property to The Sports Authority/Petco as opposed to other tenants.	Will testify
Donald Gaube	c/o Impact Law Group	Testimony will cover all areas of liability and damages. UFA: Negotiations leading up to the MTA, efforts made to retenant and purchase the properties before and after the MTA, and use of the estimated \$1.8 million in additional funds provided at closing.	Will testify
Christopher Eastland	c/o Foster Pepper 4640 Admiralty Way, Marina Del Rey, CA	Testimony will cover all areas of liability and damages. UFA: The MTA and negotiations leading up to the MTA. SW: Sportsman's Warehouse business, reasons for the acquisition of some of Wholesale Sports' assets and the exclusion of certain leases, Sportsman's Warehouse's alternatives to the acquisition of Wholesale Sports assets, the negotiation, operation and execution of the transactions contemplated by the MTA, the value paid for and disposition of the acquired assets by Sportsman's warehouse and Sportsman's Warehouse's good faith in acquiring the assets, the steps taken by Sportsman's Warehouse to assist Wholesale Sports in performing under excluded leases after closing, and other facts relevant to rebut plaintiffs' UFTA claims against Sportsman's Warehouse.	Will testify

PRETRIAL ORDER - 7

NO. 2:13-cv-00383-JLR



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<i>Name</i>	<i>Address</i>	<i>Nature of Expected Testimony</i>	<i>Trial Testimony</i>
Peter Melnychuk	c/o Slinde Nelson Stanford UFA, 4838 Richards Road, Calgary, Canada	Testimony will cover all areas of liability and damages. UFA: The MTA, financial details surrounding the acquisition and investment by UFA into Wholesale Sports, and communications with the Landlords.	Will testify
Denys Vuch	c/o Slinde Nelson Stanford UFA, 4838 Richards Road, Calgary, Canada	Testimony will cover areas which were addressed in his deposition. UFA: Financial details surrounding Wholesale Sports, loans and investments by UFA into Wholesale Sports and the accounting for the return on capital to UFA pursuant to the MTA.	Will testify
John Robert Nelson	c/o Slinde Nelson Stanford	Testimony will cover areas which were addressed in his deposition.	Will testify by deposition
Bruce Nysetvold	c/o Slinde Nelson Stanford UFA, 4838 Richards Road, Calgary, Canada	Testimony will cover all areas of liability and damages. UFA: Regarding communications with the parties surrounding the leases, the MTA, and the Collateral Assignment.	Will testify
Steve Ruggerio	First American Properties, Inc. 175 Parfitt Way SW S-150 Bainbridge Island, WA 98110	Testimony will cover areas concerning mitigation of damages and available tenants. UFA: Search for tenants at the properties. SW: Alamo's and Gaube's location and presentation of potential tenants	May testify
Glenn Bingley	UFA, 4838 Richards Road, Calgary, Canada	Communications with the parties surrounding the leases, the MTA, and the Collateral Assignment, as well as the general operations and management practices of Wholesale Sports.	May
Clay Crippen	Burlington Retail, c/o Roger Kindley, counsel of record	Plaintiffs' claims for tenant improvement costs as reletting costs	May



<i>Name</i>	<i>Address</i>	<i>Nature of Expected Testimony</i>	<i>Trial Testimony</i>
George Koppe (subject to pre-trial rulings)	Midland Loan Services 10851 Mastin Blvd., Suite 700 Overland Park, KS, 66210	Information about attempts of Alamo and Mr. Gaube to secure a loan to buy the Burlington property.	Possible, and by deposition

EXHIBITS

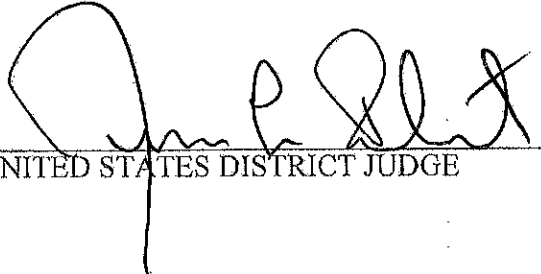
See Exhibit A.

ACTION BY THE COURT

- (a) This case is scheduled for trial before a jury on February 23, 2015 at 9:00 a.m.
- (b) Trial briefs shall be submitted to the Court on or before February 17, 2015.
- (c) Jury instructions requested by any party shall be submitted to the Court on or before February 17, 2015. Suggested questions of any party to be asked of the jury by the Court on voir dire shall be submitted to the Court on or before February 17, 2015.
- (d) (other rulings made by the Court at or before pretrial conference).

This Order has been approved by the parties as evidenced by the signatures of their counsel. This Order shall control the subsequent course of the action unless modified by a subsequent order. This Order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this 2ND day of March, 2015.


UNITED STATES DISTRICT JUDGE

PRETRIAL ORDER - 9

NO. 2:13-cv-00383-JLR

1 FORM APPROVED:

2 RYAN, SWANSON & CLEVELAND, PLLC

3
4 By /s/ Roger J. Kindley

Roger J. Kindley, WSBA #11875

5 Britenae Pierce, WSBA #34032

Teruyuki S. Olsen, WSBA #40855

6 Attorneys for Plaintiff Burlington Retail, LLC

1201 Third Avenue, Suite 3400

7 Seattle, Washington 98101-3034

Phone: 206-464-4224/Fax: 206-583-0359

8 kindley@ryanlaw.com

pierce@ryanlaw.com

9 olsen@ryanlaw.com

10 GORDON TILDEN THOMAS & CORDELL LLP

11
12 By /s/ Matthew Pierce

Jeffrey I. Tilden, WSBA #12219

13 Matthew Pierce, WSBA #34019

Attorneys for Plaintiff Lacey Marketplace

14 Associates II LLC

1001 Fourth Avenue, Suite 4000

15 Seattle, WA 98154

Phone: 206-467-6477/Fax: 206-467-6292

16 jtilden@gordontilden.com

mpierce@gordontilden.com

17
18 SLINDE NELSON STANFORD

19
20 By /s/ Christina Haring-Larson

Christina Haring-Larson, WSBA #30121

21 Darian A. Stanford, WSBA #44604

Attorneys for Defendant United Farmers of Alberta

22 Co-Operative Limited

600 University St., Suite 1730

23 Seattle, WA 98101

Phone: 206-237-0020/Fax: 503-417-4250

24 christina@slindenelson.com

25 darian@slindenelson.com

26
PRETRIAL ORDER - 10

NO. 2:13-cv-00383-JLR



1
2 FOSTER PEPPER PLLC

3 By /s/ John Ray Nelson

4 John Ray Nelson, WSBA No. 16393
5 Attorneys for Defendant Sportsman's Warehouse, Inc.
6 422 W. Riverside Ave., Suite 1310
7 Spokane, WA 99201
8 Phone: 509-777-1600/Fax: 509-777-1616
9 nelsj@foster.com

10 IMPACT LAW GROUP PLLC

11 By /s/ Sage Andrew Linn

12 Sage Andrew Linn, WSBA #31841
13 Attorneys for Defendants Wholesale Sports USA, Inc.,
14 Alamo Group LLC, and Donald F. Gaube
15 1325 Fourth Avenue, Suite 1400
16 Seattle, WA 98101
17 Phone: (206) 792-5230/Fax: (206) 452-0655
18 sage@impactlawgroup.com
19
20
21
22
23
24
25
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PRETRIAL ORDER - 11

NO. 2:13-cv-00383-JLR



**EXHIBIT A
TRIAL EXHIBITS**

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
Plaintiffs' Exhibits				
1	Master Transaction Agreement	X		
2	Sportsman's Warehouse, Inc. Lease (Lacey, WA)	X		
3	Sportsman's Warehouse, Inc. Lease (Burlington, WA)	X		
4	Master Transaction Agreement Summary			X
5	Project Tex-Mex Funds Flow Schedule	X		
6	Indemnity Agreement		X	
7	Assumption Agreement		X	
8	Resolutions of Board of Directors of Wholesale Sports (approving Master Transaction Agreement)	X		
9	Letter re 1220 Marvin Rd NE, Lacey, WA property	X		
10	Sportsman's Warehouse, Inc. Collateral Assignment of Lease (Lacey, WA)	X		
11	Sportsman's Warehouse, Inc. Collateral Assignment of Lease (Burlington, WA)	X		
12	Letter re landlord notice re assignment of Lease re Lacey property	X		
13	Letter re landlord notice re assignment of Lease re Burlington property	X		
14	Minutes of Wholesale Sports Board of Directors	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
15	Draft minutes of Wholesale Sports Board of Directors Meeting		X	
16	Meetings of UFA Board of Directors Special Meeting	X		
17	Draft minutes of Wholesale Sports Board of Directors Meeting	X		
18	Minutes of UFA Board of Directors Special Meeting	X		
19	Select pages from Email re Information Request List	X		
20	Wholesale Sports store loan summary	X		
21	Email re LOI		X	
22	Select pages from Email re LOI	X		
23	Select pages from Email attaching offer letter		X	
24	Page 1 of Email re Project TexMex Update-Comments on LOI	X		
25	Select pages from Conference call evite re Wholesale Sports LOI			X
26	Select pages from Email attaching WS offer letter draft 101212 v2			X
27	Funds Flow Schedule	X		
28	Letter re Wholesale Sports USA	X		
29	Letter re Wholesale Sports Burlington and Coeur d'Alene		X	
30	Email re WSS Board Presentation 12/7/12 attaching proposal	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
31	Board Presentation	X		
32	Minutes of Board of Directors of Wholesale Sports Canada and Wholesale Sports USA	X		
33	Email re change that UFA is decision maker	X		
34	Email re closing certain locations	X		
35	Signed Letter of Intent	X		
36	Email re no misinterpretation	X		
37	Minutes of Special Meeting of Board of Directors of UFA	X		
38	Email re pressure to get inside stores	X		
39	Email re Gaube to make offers on buildings	X		
40	Email re tax loss	X		
41	Email following up re confirming signing of MTA	X		
42	Audit Committee pamphlet re MTA		X	
43	Email re Burlington and Coeur d'Alene- won't close w litigation pending	X		
44	Email re 5 landlords threatening litigation		X	
45	Email re outstanding issues not resolved	X		
46	Email re concerns over progress w landlords	X		
47	Email	X		
48	Email re Alamo's ability to make deal work	X		
49	Email re Spokane	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
50	Email re negotiations w landlord	X		
51	Email re Burlington, Lacey & Coeur d'Alene; UFA indemnity	X		
52	Email re Nysetvold 030713 UFA indemnity email		X	
53	Email re Alamo assistance	X		
54	Email re draft AC items for tomorrow discussion	X		
55	Audit Committee PowerPoint	X		
56	Memo re repatriation of funds from Wholesale Sports	X		
57	Email	X		
58	United Farmers of Alberta PBC Listing Planning, For the Year Ended in December 30, 2013 – Disposition of WSSUSA			X
59	Letter from Daniel Lerner			X
60	Email re thanks for efforts		X	
61	Email re consent	X		
62	Letter re amended lease dated Nov. 23, 2005 – Alamo Transaction – Lacey, WA	X		
63	Letter re amended lease dated February 23, 2006 – Alamo Transaction – Burlington, WA	X		
64	Letter re amended lease dated February 23, 2006 – Alamo Transaction – Burlington, WA	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
65	Email re limiting UFA indemnity	X		
66	Email re fixtures	X		
67	First Amendment to Master Transaction Agreement	X		
68	Email re update	X		
69	Email re concerns over progress w landlords	X		
70	Email re tax loss	X		
71	Letter re amendment to side letter dated 2/10/13	X		
72	Email summarizing discussion	X		
73	Email re revised Wholesale/UFA Proposal Letter		X	
74	Email attaching assignment/subletting language	X		
75	Email re stock purchase	X		
76	Email re Question re NOL	X		
77	Email re Master Transaction Agreement attaching initial draft of MTA	X		
78	Letter re indemnification and release	X		
79	Email re consents from landlords	X		
80	Email re landlords threatening to sue		X	
81	Email re call with UFA	X		
82	Email re bringing in another tenant	X		
83	Email re closing update	X		
84	Email re payment	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
85	Email re Silverdale location	X		
86	Lacey Inventory at Closing	X		
87	Email re closing-initiate transfer for UFA		X	
88	Email re Sportsman's Comments		X	
89	Email re LOI		X	
90	Select Email re touching base	X		
91	Email re Wholesale Sports/NorthTown Mall		X	
92	Email re Coeur d'Alene and Burlington	X		
93	Email re progress with landlords	X		
94	Email re urgent-Wholesale Sports logistics		X	
95	Email		X	
96	Email re Spokane		X	
97	Credit Information Request	X		
98	Email	X		
99	Email re transfer and assumption		X	
100	Letter re Lease	X		
101	Letter re Purchase & Sale Agreement	X		
102	Email attaching certification		X	
103	Email re 8% cap	X		
104	Email		X	
105	Letter re Dick's lease proposal	X		
106	Email re Burlington and Coeur d'Alene		X	
107	Email re estimate	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
108	Email re Wholesale targeted tenant list		X	
109	Email re May invoice		X	
110	Email re Revised Dick's		X	
111	Email re Party City		X	
112	Email re quick overview of Party City LOI		X	
113	Email re Party City-Burlington		X	
114	Email re Burlington Coat		X	
115	Email with latest on Burlington		X	
116	Email attaching UFA letter to DuBose		X	
117	Email re WS-Lacey spreadsheet-Dick's		X	
118	Email attaching Dick's LOI	X		
119	Email re WS-Lacey spreadsheet-Dick's		X	
120	Petco Standard Form Lease	X		
121	Email re Wholesale Sports redevelopment	X		
122	Email re Wholesale Sports redevelopment	X		
123	Email re Petco LOI and attaching analysis of CAM		X	
124	Email re Lacey for Petco?	X		
125	Email		X	
126	Email re Petco call this AM		X	
127	Lease between Lacey and TSA	X		
128	Email re WS-Lacey Release Spreadsheet		X	
129	Email re Lacey call		X	
130	Email re Sports Authority LOI	X		
131	Email re Lacey-TSA	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
132	Lease between Burlington Retail and Party City	X		
133	Email		X	
134	Letter re Sportsman's/offer from Big Lots (unsigned)	X		
135	Lease between Dick's and Burlington Retail	X		
136	Letter re Dick's terms (unsigned)	X		
137	Email re Dick's LOI		X	
138	Email re Dick's LOI	X		
139	Email re Dick's LOI		X	
140	Burlington Retail, LLC re-tenanting costs – detail through 9/15/14		X	
141	Lacey Marketplace Assoc. II, LLC re-tenanting costs-Lacey Phase II through 9/15/14		X	
142	Burlington Damages	X		
143	Burlington rent schedule	X		
144	Lacey Marketplace – Wholesale Sports estimated damages		X	
145	Burlington/Wholesale Sports rent schedule		X	
146	Email re Petco Lacey – demising construction breakdown	X		
147	Email	X		
148	Email re Transfer and Assumption		X	
149	Sportsman's webpage w Management and Board of Directors bios		X	
150	Burlington Inventory at Closing		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
151	Email re Proposal Letter	X		
152	Photographs of Burlington Retail after closure			X
153	Photographs of Lacey Marketplace after closure			X
154	Email string between G. Bellerive, C. Eastland, and A. Kemper re Update		X	
155	Email string re Wholesale Sports			X
156	Email from J. Holland to G. Bingley re TEXMEX IMPACTS		X	
157	Email from G. Bingley to P. Melynychuk re Alamo		X	
158	Email from G. Bingley to P. Melynychuk re Alamo		X	
159	Email string re My contact information is below		X	
160	Email string RE: Dick's expense - Burlington		X	
161	Email string RE: Burlington, WA		X	
162	Email string RE: Dick's Draft		X	
163	Letters to Wholesale Sports and UFA Holdings from M. Hess- 10 Day Notice of Default of Lease - Lacey Marketplace	X		
164	Email string Re: Budget for Dick's Sporting Goods located in Burlington at the Existing Sportsman's - Including Pictures		X	
165	Email string RE: LOI's		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
166	Email string RE: Dick's - Burlington		X	
167	Email string RE: Dick's - Burlington		X	
168	Email string FW: Burlington		X	
169	Email string RE: Burlington, WA		X	
170	Email string FW: Washington State - City Per Capita Retail Sales Rankings			X
171	Email string FW: Burlington, WA former Wholesale Sports		X	
172	Email re Project TexMex Update - Comments on LOI		X	
173	Email re: Ashley LOI - Lacey		X	
174	Email from Don Gaube to Peter Melnychuk		X	
175	Email from Peter Melnychuk to Dilip Krishna re proceeds distributed to parent		X	
176	Email from Peter Melnychuk to Bruce Nysetvold re DA comments		X	
177	UFA Minutes of the Special Meeting of the Board of Directors	X		
178	Minutes of the Board of Directors of Wholesale Sports Canada Ltd. and Wholesale Sports USA, Inc. at UFA Corporate Office	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
179	Email from Peter Melnychuk to Don Gaube re Meeting in SF	X		
180	Lacey Photographs			X
181	Lacey Re-tenanting Costs		X	
182	Lacey Wholesale Sports – Damages		X	
183	Lacey Re-tenanting Costs through 9-15-14		X	
184	Lacey Sportman's Warehouse Lease – Bates Numbered	X		
185	Lacey Sportsman's Warehouse Lease 1st Amendment - Bates Numbered	X		
186	SW Collateral Assignment – Lacey – Bates Numbered	X		
187	Lacey - Petco Lease - Bates Numbered	X		
188	Memorandum of Shopping Center Lease re TSA	X		
189	Lacey - TSA Lease – Bates Numbered	X		
190	Summary of Leasing Activity			X
191	Email from J. DuBose to L. Guillory and Joren Peterson; cc: M. DuBose and R. Andrews		X	
192	Email from J. DuBose to L. Guillory and Joren Peterson; cc: M. DuBose and R. Andrews		X	
193	Dick's LOI for Lacey Marketplace with Lacey changes - clean version	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
194	Dick's LOI redlined by Lacey Marketplace	X		
195	Email from J. DuBose to D. Pinney, R. Andrews, S. Shanks, M. Hess, M. DuBose re Lacey, WA		X	
196	Email from J. Peterson to M. DuBose, J. DuBose, R. Andrews re Dick's LOI for Lacey		X	
197	Revised LOI from Dick's dated September 6, 2013	X		
198	Email from J. DuBose to J. Peterson; cc: R. Andrews, M. Dubose		X	
199	September 9, 2013 Revised Dick's LOI	X		
200	Email from J. DuBose to R. Andrews, S. Shanks, M. Hess and M. DuBose	X		
201	Email from J. DuBose to R. Andrews		X	
202	Email from Joren Peterson to R. Andrews and J. DuBose re Dick's LOI		X	
203	Email from R. Andrews to L. Anderson re Dick's		X	
204	Email from J. DuBose to R. Cantrell, R. Andrews, D. Pinney, S. Shanks, M. Hess and M. Dubose re Joren Peterson call - Lacey	X		
205	Email from C. Stamets to J. DuBose and R. Andrews re TSA LOI		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
206	Email from R. Andrews to P. LaBrash re Lacey TSA LOI		X	
207	11/04/13 TSA LOI	X		
208	Email from R. Andrews to P. LaBrash re email from C. Stamets attaching revised TSA LOI		X	
209	Revised 11/08/13 LOI from TSA	X		
210	Email from R. Andrews to B. Nelson re Petco LOI and Site Plan	X		
211	Petco LOI with Lacey Marketplace changes	X		
212	Email from C. Stamets to J. DuBose and R. Andrews re Lacey TSA	X		
213	Email from R. Andrews to B. Nelson re Petco Lacey		X	
214	Email from J. DuBose to E. McKinley and B. Nelson; cc: R. Andrews, M. Dubose, M. Hess, S. Shanks, M. Tronquet re Petco – Signed LOI		X	
215	2/3/14 Signed Petco LOI	X		
216	Lorraine Barrick's Report		X	
217	Burlington Retail Retenancing Costs		X	
218	Burlington Wholesale Sports Damages		X	
219	Lacey Marketplace Retenancing Costs		X	
220	Lacey Marketplace Wholesale Sports Damages		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
UFA's Exhibits				
A-1	Email from DuBose to Andrews, Hess, et al; Proforma			X
A-2	Email from Page to Struzyna, J. DuBose, and Anderson; Draft Burlington Lease		X	
A-3	Email from Struzyna to Page, J. DuBose		X	
A-4	Emails between Ruggiero and J. DuBose		X	
A-5	Email from DuBose to J. DuBose; Proforma		X	
A-6	Email from Oswald to DuBose, George		X	
A-7	Email from Walker		X	
A-8	UFA Board of Directors Meeting, Calgary Support Office Minutes		X	
A-9	Emails between J. DuBose, Page, et al	X		
A-10	Articles of Incorporation of UFA Holdings, Inc.	X		
A-11	Bylaws of UFA Holdings, Inc.	X		
A-12	Utah Secretary of State Certificate of Existence for Wholesale Sports	X		
A-13	Email from J. DuBose to DuBose, Hess, Crippen, et al		X	
A-14	Email from J. DuBose to Page	X		
A-15	Emails between Morawski, Tronquet, J. DuBose, et al		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-16	UFA Holdings, Inc. Stock Purchase Agreement		X	
A-17	Email from Dawes to UFA Employees		X	
A-18	Amended and Restated Articles of Incorporation of UFA Holdings, Inc.	X		
A-19	Emails between J. DuBose and Andrews		X	
A-20	UFA Holdings, Inc. Stock Purchase Agreement		X	
A-21	Wholesale Sports Balance Sheet		X	
A-22	UFA Holdings, Inc. Stock Purchase Agreement		X	
A-23	Minutes of Board of Directors of UFA		X	
A-24	UFA Holdings Shares of UFA Stock		X	
A-25	UFA Holdings, Inc. 2009 Federal Tax Return		X	
A-26	Consent and Agreement of Landlord (Lacey)		X	
A-27	Consent and Agreement of Landlord (Burlington)		X	
A-28	Action by Unanimous Written Consent of the Board of Directors of UFA Holdings, Inc.		X	
A-29	Action by Unanimous Written Consent of the Board of Directors of UFA Holdings, Inc.		X	
A-30	Resolutions of the Board of Directors of UFA Holdings		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-31	State of Utah Articles of Amendment (UFA Holdings to Wholesale Sports)	X		
A-32	Emails between Guillory, J. DuBose, and Petersen		X	
A-33	Certificate of Name Change (UFA Holdings to Wholesale Sports)	X		
A-34	Letter from DuBose to Melynychuk re: Wholesale Sports Burlington and CDA	X		
A-35	Minutes of Board of Directors of Wholesale Sports		X	
A-36	Email from Footh to DuBose, Hess, et al; Lacey Investment Flyer		X	
A-37	Email from Macko/Bingley to DuBose	X		
A-38	Email from DuBose to Andrews, Shanks, Hess	X		
A-39	Email from DuBose to Andrews; Draft response letter		X	
A-40	Letter Agreement between Burlington and UFA re: Marketing Incentive	X		
A-41	Letter Agreement from UFA to Burlington	X		
A-42	Email from Bingley to Hess, DuBose, and Melynychuk	X		
A-43	Emails between from Andrews, Nelson, and Hess	X		
A-44	Wholesale Sports Director and Officer Register	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-45	Email from Ruggiero to Bingley		X	
A-46	Emails between Melynychuk, Bingley, and Ruggiero		X	
A-47	Email from Ruggiero to Gaube		X	
A-48	Email from Gaube to Bingley, Melynychuk, and Ruggiero		X	
A-49	Emails between Ruggiero, Bingley, Melynychuk, and Gaube		X	
A-50	Emails between Andrews, Shanks, Hess, and Drennon; Lacey Petco Clarifications and Assumptions Budget Proposal		X	
A-51	Emails between Andrews, Shanks, Hess, Cantrell, and Drennon		X	
A-52	Email from DuBose to J. DuBose, Hess	X		
A-53	Email from Chana to Kapitan, Bingley, et al	X		
A-54	Emails between Melynychuk and Gaube	X		
A-55	Emails between Melynychuk and Gaube	X		
A-56	Emails between J. DuBose, DuBose, Hess, Shanks, Guillory		X	
A-57	Email from Nelson to Andrews, Hess; Petco LOI	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-58	Wholesale Sports Board of Directors Meeting Agenda, Minutes, 07/30/12 Financial Results Presentation		X	
A-59	Minutes of Board of Directors of UFA		X	
A-60	Emails between Gaube and Wyse	X		
A-61	Email from Gaube to Lee	X		
A-62	Offer Letter from Alamo Group to UFA	X		
A-63	Emails between Gaube, Wyse, and Melynychuk		X	
A-64	Emails between Gaube and Wyse		X	
A-65	Minutes of Board of Directors of UFA		X	
A-66	Emails between Melynychuk, Gaube, and Wyse		X	
A-67	Emails between Gaube, Lee, and Wyse		X	
A-68	Emails between Melynychuk, Gaube and Vuch		X	
A-69	Email from Gaube to Wyse and Eastland		X	
A-70	Email from Melynychuk to Gaube	X		
A-71	Offer Letter from Alamo Group	X		
A-72	Emails between Gaube, Ruggiero, and Wyse	X		
A-73	Emails between Melynychuk, Cook, Bingley, et al; Offer Letter from Alamo Group	X		
A-74	Email between Gaube, Wyse, and Eastland	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-75	Emails between Melynychuk, Gaube, and Wyse	X		
A-76	Emails between Melynychuk and Gaube	X		
A-77	Emails between Gaube and Melynychuk	X		
A-78	Emails between Melynychuk, Carrie, and Gaube	X		
A-79	Emails between Melynychuk, Cook, Cohen, and Gaube	X		
A-80	Project Tex Mex PowerPoint Presentation		X	
A-81	Project Tex Mex Board Presentation	X		
A-82	UFA 2013 Business Plan		X	
A-83	Emails between Gaube, Eastland, and Wyse	X		
A-84	Email between Wyse, Gaube, and Eastland re: Capital West		X	
A-85	Letter Agreement between UFA and Alamo Group	X		
A-86	Emails between Vuch, Melynychuk, Bingley, et al	X		
A-87	Emails between Bellerive, Melynychuk, Kemper, et al; Draft Acquisition Letter	X		
A-88	Email from Bellerive to Gaube, Melynychuk, Kemper; Draft Acquisition Letter; Capital West Acquisition Letter	X		
A-89	Emails between Eastland, Gaube, and Wyse	X		
A-90	Letter from Capital West to Eastland	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-91	Emails between Eastland, Gaube, Wyse, et al	X		
A-92	Emails between Wyse, Eastland, Gaube, et al	X		
A-93	Emails between Bellerive, Melynychuk, Vuch, Kemper		X	
A-94	Emails between Gaube, Eastland, Kemper		X	
A-95	Emails between Melynychuk, et al; Draft Proposed Transaction Letter	X		
A-96	Promissory Note		X	
A-97	Emails between Eastland, Melynychuk, Bellerive, and Kemper	X		
A-98	Emails between Bingley, Melynychuk, and Nysetvold	X		
A-99	Email from Nelson to Melynychuk	X		
A-100	Alamo Group Purchase Offer (Burlington, Lacey, CDA)		X	
A-101	Alamo Group Offer Letter		X	
A-102	Letter from Hess to Nysetvold re: Wholesale Sports-Alamo Transaction	X		
A-103	Emails between Hess, Andrews, et al		X	
A-104	Email from Nelson to Bates	X		
A-105	Email from DuBose to Hess		X	
A-106	Emails between DuBose, Hess, Nysetvold, Gaube, and Melynychuk		X	
A-107	Project Tex Mex Audit Presentation		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-108	Memo from Chisholm to Board of Directors re: Audit Committee Meeting of February 22, 2013		X	
A-109	Emails between Gaube, Ruggiero, and Eastland	X		
A-110	Emails between Gaube, Ruggiero, Barr, and Nysetvold		X	
A-111	Emails between Nysetvold, Hess, DuBose, Melynychuk, Gaube, et al		X	
A-112	Emails between Gaube, Melynychuk, Eastland, Bruzzone	X		
A-113	Emails between Bellerive, Eastland, Gaube, and Melynychuk		X	
A-114	Lacey Complaint		X	
A-115	Burlington Complaint		X	
A-116	Emails between Hess, Gaube, and DuBose		X	
A-117	Emails between Bruzzone, Kingston, Herron, and Gaube		X	
A-118	Email from Hess to Gaube		X	
A-119	Email from Gaube to Bruzzone	X		
A-120	Email from Nysetvold to Tronquet		X	
A-121	Email from Melynychuk to Bellerive; Summary of Terms re: Alamo's Role in Sale of Wholesale Sports		X	
A-122	Email from Bellerive to Gaube, Melynychuk, and Eastland		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-123	UFA Holdings Shares of UFA Stock		X	
A-124	Emails between Nysetvold, Tronquet, et al		X	
A-125	Emails between Eastland, Melynychuk, and Bellerive	X		
A-126	Lease Assignment and Assumption Agreement List		X	
A-127	Schedule 1.1(d) to Master Transaction Agreement		X	
A-128	Wholesale Sports Balance Sheet		X	
A-129	Resignations of Wholesale Sports Officers and Directors	X		
A-130	WSS Holding USA, Inc. Estimated Closing Statement		X	
A-131	Email from Gaube to Hess		X	
A-132	Emails between Cantrell, Andrews, Hess, and Gaube		X	
A-133	Emails between Cantrell, Andrews, Hess, and Anderson		X	
A-134	Email from Gaube to Melynychuk		X	
A-135	Standard Offer, Agreement, and Escrow Instructions for Purchase of Real Estate (Burlington)		X	
A-136	Email from Stamets to Gaube, Andrews		X	
A-137	Emails between DuBose and Gaube		X	
A-138	Emails between DuBose, Gaube, and Hess		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-139	Emails between DuBose, Hess, Shanks, Crippen, and Gaube		X	
A-140	Project Tex Mex Audit Presentation	X		
A-141	Minutes of Board of Directors of UFA	X		
A-142	Board Presentation by Glenn Bingley, COO		X	
A-143	Emails between Gaube and Eastland	X		
A-144	Emails between Hess, Shanks, Andrews, DuBose, and Gaube; Petco and Ashley LOIs		X	
A-145	Dick's Letter of Intent – Find Signed Copy		X	
A-146	Emails between Hess, Andrews, Shanks, DuBose, and Gaube		X	
A-147	Emails between Gaube and Ruggiero		X	
A-148	Emails between Hess, Gaube, and DuBose		X	
A-149	Emails between Gaube, Johnson, and Peterson		X	
A-150	Letter from First American to Peterson re: Dick's Lease Proposal		X	
A-151	Letter from First American to Guillory re: Party City Lease Proposal		X	
A-152	Emails between Peterson, J. DuBose, et al attaching Dick's LOI		X	

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A-153	Emails between J. DuBose, Hess, DuBose, Peterson, etc.		X	
A-154	Email from J. DuBose to DuBose attaching Dick's LOI (Red-Line Draft)		X	
A-155	LOI from Party City		X	
A-156	Emails between DuBose and Koppe		X	
A-157	Emails between J. DuBose, Hess, Andrews, et al.	X		
A-158	Emails between DuBose and Koppe		X	
A-159	Email from DuBose to Gaube, Hess		X	
A-160	Email from Gaube to DuBose		X	
A-161	Email from LaBrash to Cantrell, Anderson, and Hess attaching Dick's LOI (Red-Line Draft)		X	
A-162	Emails between DuBose, J. DuBose, Gaube, and Hess		X	
A-163	Emails between Gaube and DuBose		X	
A-164	Email from DuBose to Gaube and Hess		X	
A-165	Emails between Gaube, DuBose, and Hess		X	
A-166	Termination of Offer for Burlington Letter from DuBose to Alamo Burlington		X	
A-167	Letter from DuBose to Alamo Group re: ReEntry of Premises	X		

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-168	Letter from DuBose to Alamo Group re: Lease between Burlington and UFA	X		
A-169	Email from Koppe to DuBose and Gaube		X	
A-170	Letter from DuBose to Alamo re: Termination of Burlington Purchase & Sale Agreement		X	
A-171	Email from Melynychuk to Ell, Nelson, et al		X	
A-172	Emails between Andrews, Anderson, Cantrell, Peterson, et al attaching Dick's LOI	X		
A-173	Emails between Andrews, Anderson, Cantrell, Peterson, et al attaching Dick's LOI (Red-Line Draft)	X		
A-174	Party City LOI	X		
A-175	Email from J. DuBose to DuBose attaching Dick's LOI	X		
A-176	Email from J. DuBose to DuBose, Andrews attaching Dick's LOI (Red-Line Draft)	X		
A-177	Bob Nelson UFA Presentation		X	
A-178	Email from Melynychuk to Nelson		X	
A-179	Email from Nelson to Andrews and Hess		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-180	Emails between Andrews, Cantrell, Anderson, Peterson, et al attaching Dick's LOI (Red-Line Draft)	X		
A-181	Emails between DuBose, Andrews, Hess, and Crippen		X	
A-182	Email from J. DuBose to Pinney, Andrews, et al re: Lacey Release Spreadsheet (Petco/SA v Dick's)		X	
A-183	Emails between Cantrell, Anderson, Andrews, DuBose, Hess, et al		X	
A-184	Email from DuBose to Andrews, Hess		X	
A-185	Emails between Andrews, Anderson, and Cantrell		X	
A-186	Email from DuBose to Cantrell, Andrews, Shanks, DuBose, and Hess; Dick's Budget		X	
A-187	Email from Finnegan to Rose, Carlson, and J. DuBose	X		
A-188	West Com Properties Purchase Offer for Burlington	X		
A-189	Dick's Letter of Intent (Fully Executed)	X		
A-190	Emails between Peterson, J. DuBose, et al	X		
A-191	Petco LOI	X		
A-192	Email from Shanks to DuBose, Pinney attaching Petco LOI (Red-Line Draft)		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-193	Lacey and Burlington Amended Complaint		X	
A-194	Email from Sevenich to DuBose, Hess, Shanks; Burlington Loan Proposal		X	
A-195	Burlington Response to UFA's First Interrogatories and Requests for Production		X	
A-196	Emails between DuBose, Sevenich, Tronquet		X	
A-197	Email from J. DuBose; Spreadsheets		X	
A-198	Letter from Arroyo & Company to Burlington re: Purchase of Dick's		X	
A-199	First Western Development Services Company Profile		X	
A-200	Burlington Income Calculation (Dick's and Party City)		X	
A-201	Lacey Rent Spreadsheet (Petco/SA)	X		
A-202	Sportsman's Warehouse Website	X		
A-203	Wholesale Sports – Burlington Vendor Inventory List	X		
A-204	Burlington Lease Flyer	X		
A-205	Burlington Commercial Rent Roll	X		
A-206	Wholesale Sports Store Lease Summary		X	
A-207	Wholesale Sports Website		X	
A-208	Wholesale Sports Store Closing Flyer		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
A-209	Wholesale Sports Lease Flyer		X	
A-210	UFA Holdings Tax Return 2009		X	
A-211	UFA Holdings Tax Return 2010		X	
A-212	UFA Holdings Tax Return 2011		X	
A-213	UFA Holdings Tax Return 2012		X	
A-214	UFA General Ledger Report 12/27/2010 to 03/31/2013		X	
A-215	UFA 2009 Annual Report (Short)		X	
A-216	UFA 2009 Annual Report (Detailed)		X	
A-217	UFA 2010 Annual Report (Short)		X	
A-218	UFA 2010 Annual Report (Detailed)		X	
A-219	UFA 2011 Annual Report (Short)		X	
A-220	UFA 2011 Annual Report (Detailed)		X	
A-221	UFA 2012 Annual Report (Short)		X	
A-222	UFA 2012 Annual Report (Detailed)		X	
A-223	UFA 2013 Annual Report (Short)		X	
A-224	UFA 2013 Annual Report (Detailed)		X	

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Admissible</u>	<u>Inadmissible / Authenticated</u>	<u>Inadmissible / Unauthenticated</u>
Alamo Group/Gaube/Wholesale Sports Exhibits				
A-225	Letter from counsel for Lacey to Wholesale Sports dated May 15, 2013 re: rejection of offers outlined in May 8 letter		X	
A-226	April 15, 2013 LOI from Dick's to lease the Burlington property		X	
Sportsman's Warehouse Exhibits				
SW-1	Email		X	
SW-2	Certificate of Name Change	X		
SW-3	Email Chain re Alamo Group		X	
SW-4	Email re Summary of Terms Regarding Alamo		X	
SW-5	Email re Burlington, Lacey & Coeur d'Alene; UFA Indemnity		X	
SW-6	Email	X		
SW-7	Letter from Capital West Partners re Proposed Acquisition of Wholesale Sports US Inc		X	
SW-8	Email re DKS LOI Lacey WA Wholesale Sports		X	
SW-9	Email re Lacey Tenant Rents/Comparisons		X	
SW-10	Email		X	
SW-11	Email		X	
SW-12	Lease narrative attached to Exhibit H of expert report of Roland James Hoeffler		X	
SW-13	Excel spreadsheet re Wholesale Sports bank accounts			X